

Organization of a Rebate or Coupon System.” A complete and accurate copy of the ’244 Patent is attached as Exhibit A.

3. As set forth below, Defendants Double Cola and Online Rewards have infringed the ’244 Patent.

PARTIES

4. Plaintiff Aimia Proprietary Loyalty U.S., Inc., is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located at 100 North Sixth Street, Suite 700B, Minneapolis, MN 55403. Plaintiff Aimia Proprietary Loyalty U.S., Inc. has operations within the State of Michigan including an office at 2800 Livernois, Suite 600, Troy, Michigan 48083 and over 100 employees in the State of Michigan.

5. Plaintiff Aimia Proprietary Loyalty U.S., Inc., is one of the largest marketing firms in the United States and provides marketing services that revolve around assisting clients in building relationships with employees, partners, and consumers as part of their efforts to increase sales.

6. Defendant Double Cola is a corporation organized and existing under the laws of the State of Georgia, with a principal place of business at 537 Market Street, Suite 100, Chattanooga, Tennessee 37402.

7. Defendant Double Cola manufactures, markets and/or sells products for use throughout the United States, including in Michigan and within this judicial district. Upon further information and belief, Defendant Double Cola manufactures, markets and sells carbonated beverages and other products under the name Double Cola.

8. Defendant Online Rewards is a corporation organized and existing under the laws of State of Texas, with a principal place of business at 3102 Maple Ave, Suite 450, Dallas, Texas 75201

9. Defendant Online Rewards markets and sells products and services for use throughout the United States, such as the Double Cola Reward My Thirst Loyalty Program, including Michigan and within the judicial district. Upon information and belief, Defendant Online Rewards markets and sells loyalty marketing products and services under the name Online Rewards.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction over this matter pursuant to 35 U.S.C. §§ 271 and 281-285, as well as 28 U.S.C. §§ 1331 and 1338(a), amongst others.

11. The Court has personal jurisdiction over Double Cola and Online Rewards, and venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, Double Cola and Online Rewards have substantial contacts with this forum as a result of pervasive business activities conducted within the State of Michigan and within this judicial district, including, but not limited, to the execution of the promotional rewards program entitled Double Cola Reward My Thirst Promotion. Further, Double Cola and Online Rewards have committed acts of patent infringement, directly and/or through agents, intermediaries and/or third parties, by the ownership and operation of the Double Cola Reward My Thirst Promotion in Michigan and within this judicial district.

12. Defendant Double Cola operates a website wherein individuals or entities, including those located in Michigan and in this District, may purchase products from Double Cola and participate in the rewards program offered and operated by Defendant Double Cola and/or Online Rewards. Under the Michigan Long Arm Statute, Mich. Stat. § 600.705, Double Cola and Online Rewards transacts business in Michigan and this judicial district and has committed, or has caused to be committed, acts of patent infringement within and/or outside Michigan that have caused injury in Michigan. Defendants have committed and continue to commit acts of direct and/or indirect infringement in this District by making, using, importing, offering for sale, and/or selling products by way of infringing methods, and/or inducing others to perform method steps in Michigan that are claimed in Aimia's patent.

FACTUAL BACKGROUND

13. Double Cola owned, operated, and maintained—or controlled and directed the operation and maintenance of—the Double Cola Reward My Thirst Loyalty Program and its accompanying website, <http://rewards.double-cola.com>.

14. The Double Cola Reward My Thirst Loyalty Program is an Internet-based rewards program that allows participants to accumulate reward points in various ways. One way of earning points includes purchasing certain qualifying packages of Double Cola products and entering the unique concealed code found under the product cap or inside the product carton. Accumulated points earned from the purchases of such products may be redeemed by participants for a variety of rewards on the program's website. *See* Exhibit B attached hereto. The Double Cola Reward My Thirst Loyalty

Program is a promotional and incentive-based program to increase customer loyalty and sales of participating products, amongst other reasons.

15. Beginning at least in October 2011, Double Cola owned and operated the infringing Double Cola Reward My Thirst Loyalty Program throughout the United States, including within this District, without license from Aimia.

**COUNT I - PATENT INFRINGEMENT
OF UNITED STATES PATENT NO. 6,039,244**

16. Aimia hereby restates and realleges the allegations set forth above in Paragraphs 1 through 14 and incorporates them by reference.

17. Double Cola owns, operates, and maintains the Double Cola Reward My Thirst Loyalty Program. The Double Cola Reward My Thirst Loyalty Program employs a method of using unique concealed codes concealed and affixed on participating products for the loyalty rewards program.

18. Upon information and belief, Online Rewards may operate some or all of the steps and operations related to the Double Cola Reward My Thirst Loyalty Program. Upon further information and belief, Online Rewards performs its actions under the direction and control of Double Cola for the benefit of Double Cola.

19. Double Cola has infringed and continue to infringes one or more claims of the '244 patent under 35 U.S.C. §271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States and/or importing into the United States, products and or methods encompassed in at least claim

1 of the '244 patent, including for example, by making, using, selling, offering for sale, and/or importing a rewards program.

20. Double Cola and Online Rewards, have infringed, and continue to infringe one or more claims of the '244 patent under 35 U.S.C. §271(a), either literally or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States and/or importing into the United States, products and or methods encompassed in at least claim 1 of the '244 patent, including for example, by making, using, selling, offering for sale, and/or importing a rewards program.

21. Double Cola directs and controls Online Rewards related to the operation and performance of the Double Cola Reward My Thirst Loyalty Program. Double Cola is the mastermind in the scheme to operate the Double Cola Reward My Thirst Loyalty Program. On information and belief, Double Cola may direct and control the action of Online Rewards through contractual or agency relationships to operate the Double Cola Reward My Thirst Loyalty Program. Double Cola and Online Rewards in concert to operate the Double Cola Reward My Thirst Loyalty Program in order for Double Cola to receive a financial benefit for the operation of the Double Cola Reward My Thirst Loyalty Program. Double Cola and Online Rewards act in concert to operate the Double Cola Reward My Thirst Loyalty Program in a manner that performs the claimed methods in the '244 patent.

22. Double Cola and Online Rewards do not have a license or permission to use the claimed subject matter in the '244 Patent for the operation of the Double Cola Reward My Thirst Loyalty Program.

23. The infringement by Double Cola and Online Rewards of the '244 Patent has injured Aimia, and will caused irreparable injury and damage. Double Cola and Online Rewards are liable to Aimia in an amount that adequately compensates it for its infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

PRAYER FOR RELIEF

WHEREFORE, Aimia respectfully requests that the Court find in its favor and enter judgment against Double Cola and Online Rewards as follows:

- a. That the Court enter judgment in Aimia's favor and against Double Cola and Online Rewards on Count I of the Complaint;
- b. That Double Cola and Online Rewards be found to have infringed the '244 Patent in violation of 35 U.S.C. § 271;
- c. That Double Cola and Online Rewards pay Aimia all damages which are available pursuant to 35 U.S.C. § 284;
- d. That an injunction, temporary and/or permanent, issue enjoining Double Cola and Online Rewards and its agents, servants, officers, directors, employees, parent companies, subsidiaries, affiliates, joint venturers, and all persons acting in concert with them, directly or indirectly, from infringing, inducing others to infringe, or contributing to the infringement of the '244 Patent;
- e. If a permanent injunction is not granted, a judicial determination of the conditions for future infringement such as a royalty-bearing compulsory license or such other relief as the Court deems appropriate;

- f. That Double Cola and Online Rewards be ordered to make an accounting of its codes, participants, sales, profits, royalties, and damages owed to Aimia, including a post-judgment equitable accounting of damages for the period of infringement of the '244 Patent following the period of damages established by Aimia at trial;
- g. A finding that this case is exceptional pursuant to 35 U.S.C. § 285;
- h. That Double Cola and Online Rewards pay Aimia's attorneys' fees pursuant to 35 U.S.C. § 285;
- i. That Double Cola and Online Rewards pay pre-judgment and post-judgment interest;
- j. That Aimia be awarded its costs, fees, and expenses in this action; and
- k. That Aimia be awarded any such other and further relief provided in law and equity.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Aimia respectfully requests a trial by jury of any and all issues on which a trial by jury is available under applicable law.

Law Office of Alan Lowenthal

Date: November 23, 2015

/s/ Alan Lowenthal
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